

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

JORGE L. DELGADO GONZALEZ

Plaintiff

vs

UNITED STATES OF AMERICA

Defendant

CIVIL 16-2149CCC

(Related Cr. 12-0614-02CCC)

**OPINION AND ORDER**

Before the Court is petitioner Jorge L. Delgado González's Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence (**d.e. 1**) filed June 21, 2016 and the United States' Motion to Dismiss (**d.e. 11**) filed March 31, 2017.

On January 24, 2012, petitioner plead guilty to Hobbs Act robbery, 18 U.S.C. § 1951, in criminal case 12-cr-614CCC. He now seeks federal habeas relief in light of Johnson v. United States, 576 U.S. \_\_ (2015), which struck down as unconstitutional the residual clause of the Armed Career Criminal Act ("ACCA") found at 18 U.S.C. § 924(e)(2)(B).

However, petitioner was not subject to the ACCA in this case, nor was he subject to a career offender enhancement pursuant to United States Sentencing Guidelines § 2B1.1. Accordingly, he is not eligible for relief under Johnson.

For the foregoing reasons, the United States' Motion to Dismiss (**d.e. 11**) is GRANTED. Judgment shall be entered by separate order.

**CERTIFICATE OF APPEALABILITY**

The Court hereby ORDERS that no certificate of appealability shall be issued as petitioner failed to make a substantial showing of the denial of a constitutional right as required by 28 U.S.C. § 2253(c)(2).

SO ORDERED.

In San Juan, Puerto Rico this 24<sup>th</sup> day of February, 2020.

S/GUSTAVO A. GELPÍ  
Chief United States District Judge